

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 14825 of 2020

Prem Kumar

... Petitioner

Vs.

State represented by

Inspector of Police (L&O)

J 6, Thiruvannamiyur Police Station

Chennai

(Crime No.1295 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.1295 of 2020, on the file of the respondent police.

For Petitioner : Mr.P.G.Santhosh Kumar

For Respondent : Mrs.S.Thankira

Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 31.08.2020 for the offences punishable under Section 7 r/w 20(1) of the COTP Act and 328 of IPC in Crime No.1295 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz., Vasanth Raj, who is the Sub Inspector of Police, is that, on information, he along with his party had conducted enquiry and found that the petitioner was illegally in possession of 12.280 kgs of banned tobacco substances. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that this is the second bail application and the earlier application was dismissed by this Court vide order dated 09.09.2020 in Crl.O.P.No.13991 of 2020.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner was found in possession of 12.280 kgs of banned tobacco substances. She would further submit that the case has been registered for the offence under Sections 7 r/w 20(1) of the COTP Act and 328 of IPC. She would submit that apart from the present case the petitioner has got three previous cases of similar nature and that the investigation is pending.

5.At this juncture, the learned counsel appearing for the petitioner would on instructions submit, that taking into consideration of the Covid pandemic situation, the petitioner without prejudice to his defence and contentions, is prepared to make some considerable donation to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 31.08.2020.

6.In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association this Court is of the opinion that the petitioner shall be directed to make a payment / donation for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, and on such payment and production of proof he shall be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) Merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

(d) the petitioner on his release from prison shall report before the respondent police everyday at 10.30 a.m., until further orders.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

01/10/2020

This order, on being produced, be punctually observed and carried into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 XVIII METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

4 INSPECTOR OF POLICE (L AND O)
J6, THIRUVANMIYUR POLICE STATION,
CHENNAI

5 THE CANCER INSTITUTE (WIA) (REGIONAL CANCER CENTRE),
ADYAR, CHENNAI - 600020, BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH,

CC to M/S. P.G.SANTHOSH KUMAR Advocate on payment of necessary charges

CRL OP.14825/2020

Date : 01/10/2020

RVR 05/10/2020

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